



Reprinted  
April 15, 2009

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# ENGROSSED HOUSE BILL No. 1071

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DIGEST OF HB 1071 (Updated April 14, 2009 3:07 pm - DI 69)

**Citations Affected:** IC 32-25.5; IC 32-28.

**Synopsis:** Homeowners associations. Applies the following provisions to a homeowners association (association) established after June 30, 2009, and allows an association established before July 1, 2009, to elect to be governed by the provisions: (1) Requires an association to maintain a current roster of all members of the association (members). (2) Requires an association to prepare an annual budget that must be approved by the members. (3) Requires the board of directors of an association (board) to hold a special meeting of the members if at least 10% of the members submit a written demand to the board to hold the meeting. (4) Prohibits a board from entering into certain contracts without the approval of the affected members. (5) Prohibits a homeowners association from borrowing certain amounts of money on behalf of the homeowners association unless borrowing the money is approved by the affirmative vote of a majority of members of the homeowners association. (6) Provides that the governing documents of  
(Continued next page)

**Effective:** July 1, 2009.

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## Cheatham, Hinkle, Grubb

(SENATE SPONSORS — BOOTS, DELPH, LEWIS, SIMPSON)

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January 7, 2009, read first time and referred to Committee on Judiciary.  
February 17, 2009, amended, reported — Do Pass.  
February 20, 2009, read second time, amended, ordered engrossed. Engrossed.  
February 23, 2009, read third time, passed. Yeas 54, nays 41.

SENATE ACTION

February 24, 2009, read first time and referred to Committee on Judiciary.  
April 9, 2009, amended, reported favorably — Do Pass.  
April 14, 2009, read second time, amended, ordered engrossed.

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an association must include grievance resolution procedures. (7) Prohibits an association from suspending the voting rights of a member for nonpayment of annual assessments unless the assessments are delinquent for more than six months. Provides that an association may enforce an association lien by filing a complaint in the circuit or superior court of the county where the real estate that is the subject of the lien is located if the complaint is not filed: (1) earlier than one year; and (2) later than five years; after the date the statement and notice of intention to hold a lien were recorded. Provides that an association lien is void if: (1) the owner of the real estate subject to the lien or any person or corporation having an interest in the real estate, including a mortgagee or a lienholder, provides written notice to the owner or holder of the lien to file an action to foreclose the lien; and (2) the owner or holder of the lien fails to file an action to foreclose the lien in the county where the real estate is located within one year after the date the owner or holder of the lien received notice of the lien.

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Reprinted  
April 15, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1071

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A BILL FOR AN ACT to amend the Indiana Code concerning property.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 32-25.5 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3 2009]:

### 4 **ARTICLE 25.5. HOMEOWNERS ASSOCIATIONS**

#### 5 **Chapter 1. Applicability**

##### 6 **Sec. 1. This article applies to the following:**

7 **(1) A homeowners association established after June 30, 2009.**

8 **(2) A homeowners association established before July 1, 2009:**

9 **(A) if a majority of the members of the homeowners**  
10 **association elect to be governed by this article; or**

11 **(B) if the number of members required by the homeowners**  
12 **association's governing documents elect to be governed by**  
13 **this article if a different number of members other than**  
14 **the number established in clause (A) is required by the**  
15 **governing documents.**

#### 16 **Chapter 2. Definitions**

17 **Sec. 1. The definitions in this chapter apply throughout this**

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EH 1071—LS 6683/DI 69+



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article.

Sec. 2. "Board" refers to the board of directors of a homeowners association.

Sec. 3. "Governing documents" includes:

(1) the articles of incorporation and bylaws of a homeowners association and all adopted amendments to the articles of incorporation and bylaws; and

(2) any applicable declaration of plat.

Sec. 4. "Homeowners association" means a corporation or another entity that:

(1) is organized and operated exclusively for the benefit of two

(2) or more persons who each own a dwelling in fee simple;

(2) acts, in accordance with the articles, bylaws, or other documents governing the corporation or entity, to:

(A) acquire, transfer, manage, repair, maintain, or engage in construction on or in the land and improvements on the land related to the use of the dwellings owned by the members of the corporation or entity;

(B) purchase insurance to cover a casualty or an activity on or in the land and improvements on the land;

(C) engage in an activity incidental to an activity described in clause (A) or (B); or

(D) engage in more than one (1) of the activities described in clauses (A) through (C); and

(3) may be governed by a board that serves the purpose of setting policy and controlling or otherwise overseeing the activities or functional responsibilities of the corporation or entity.

Sec. 5. "Subdivision" means the division of a parcel of land into lots, parcels, tracts, units, or interests in the manner defined and prescribed by a subdivision control ordinance adopted by a legislative body under IC 36-7-4.

**Chapter 3. Homeowners Associations**

Sec. 1. (a) A homeowners association shall maintain:

(1) a current roster of all members of the association; and

(2) the mailing address and legal description for each member of the association.

(b) The homeowners association shall also maintain any electronic mail addresses or facsimile (fax) numbers of those members who have consented to receive notice by electronic mail or facsimile (fax). Electronic mail addresses and facsimile (fax) numbers provided by a member to receive notice by electronic mail

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1 or facsimile (fax) shall be removed from the association's records  
2 when the member revokes consent to receive notice by electronic  
3 mail or facsimile (fax). However, the association is not liable for an  
4 erroneous disclosure of an electronic mail address or a facsimile  
5 (fax) number for receiving notices.

6 (c) The mailing addresses and legal descriptions maintained by  
7 a homeowners association under subsection (a):

8 (1) shall be made available to a member of the homeowners  
9 association upon request;

10 (2) may be used by a member of the homeowners association  
11 only for a purpose related to the operation of the homeowners  
12 association; and

13 (3) may not be used by a member of the homeowners  
14 association for personal reasons.

15 (d) Except as provided in subsection (c), a homeowners  
16 association may not sell, exchange, or otherwise transfer  
17 information maintained by the homeowners association under this  
18 section to any person.

19 Sec. 2. (a) In addition to any other meeting held by a board, a  
20 board shall hold a special meeting of the members of a  
21 homeowners association if at least ten percent (10%) of the  
22 members of the homeowners association submit to the board at  
23 least one (1) written demand for the special meeting that:

24 (1) describes the purpose for which the meeting is to be held;  
25 and

26 (2) is signed by the members requesting the special meeting.

27 (b) If a board does not send out a notice of the time and the  
28 place for a special meeting not more than thirty (30) days after the  
29 date the board receives a valid written demand for the special  
30 meeting under subsection (a), a member of the homeowners  
31 association who signed the written demand may:

32 (1) set the time and place for the special meeting; and

33 (2) send out the notice for the special meeting to the other  
34 members.

35 Sec. 3. (a) A homeowners association shall prepare an annual  
36 budget.

37 (b) The annual budget must reflect:

38 (1) the estimated revenues and expenses for the budget year;  
39 and

40 (2) the estimated surplus or deficit as of the end of the current  
41 budget year.

42 (c) The homeowners association shall provide each member of

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the homeowners association with:

(1) a:

(A) copy of the proposed annual budget; or

(B) written notice that a copy of the proposed annual budget is available upon request at no charge to the member; and

(2) a written notice of the amount of any increase or decrease in a regular annual assessment paid by the members that would occur if the proposed annual budget is approved;

before the homeowners association meeting held under subsection (d).

(d) A homeowners association budget must be approved at a meeting of the homeowners association members by a majority of the members of the homeowners association in attendance at a meeting called and conducted in accordance with the requirements of the homeowners association's governing documents.

(e) For purposes of this section, a member of a homeowners association is considered to be in attendance at a meeting if the member attends:

(1) in person;

(2) by proxy; or

(3) by any other means allowed under:

(A) state law; or

(B) the governing documents of the homeowners association.

Sec. 4. (a) This section does not apply to a contract entered into by a board that would resolve, settle, or otherwise satisfy an act of enforcement against a homeowners association for violating a state or local law.

(b) A board may not enter into any contract that would result in a new assessment or the increase in an existing assessment payable by the affected members of the homeowners association in the amount of more than five hundred dollars (\$500) per year for each member of the homeowners association unless:

(1) the board holds at least two (2) homeowners association meetings concerning the contract; and

(2) the contract is approved by the affirmative vote of at least two-thirds (2/3) of the affected members of the homeowners association.

(c) A board shall give notice of the first homeowners association meeting held under subsection (b):

(1) to each member of the homeowners association; and

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1 (2) at least seven (7) calendar days before the date the meeting  
2 occurs.

3 Sec. 5. (a) This section does not apply to money borrowed by a  
4 homeowners association that is needed to:

5 (1) resolve, settle, or otherwise satisfy an act of enforcement  
6 against the homeowners association for violating a state or  
7 local law; or

8 (2) address an emergency that affects the public health, safety,  
9 or welfare.

10 (b) A homeowners association may not borrow money during  
11 any calendar year on behalf of the homeowners association in an  
12 amount that exceeds the greater of:

13 (1) five thousand dollars (\$5,000) during any calendar year;  
14 or

15 (2) if the homeowners association operated under an annual  
16 budget in the previous calendar year, an amount equal to at  
17 least ten percent (10%) of the previous annual budget of the  
18 homeowners association;

19 unless borrowing the money is approved by the affirmative vote of  
20 a majority of the members of the homeowners association voting  
21 under this section.

22 (c) A person who owns a lot, parcel, tract, unit, or interest in  
23 land in a subdivision may cast one (1) vote under this section for  
24 each lot, parcel, tract, unit, or interest in land in the subdivision  
25 that is owned by the person unless the governing documents  
26 provide for a different voting procedure.

27 (d) A vote held under this section must be conducted by paper  
28 ballot.

29 (e) A homeowners association shall distribute paper ballots to  
30 persons eligible to vote under this section at least thirty (30) days  
31 before the date the votes are to be opened and counted.

32 (f) Votes cast under this section shall be opened and counted at  
33 a public meeting held by the homeowners association.

34 Sec. 6. The governing documents must include grievance  
35 resolution procedures that apply to all members of the  
36 homeowners association and the board.

37 Sec. 7. A homeowners association may not suspend the voting  
38 rights of a member for nonpayment of any assessments unless:

39 (1) the governing documents provide for suspension; and  
40 (2) the assessments are delinquent for more than six (6)  
41 months.

42 SECTION 2. IC 32-28-14-8, AS ADDED BY P.L.135-2007,

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1 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2009]: Sec. 8. (a) A homeowners association may enforce a  
3 homeowners association lien by filing a complaint in the circuit or  
4 superior court of the county where the real estate that is the subject of  
5 the lien is located. The complaint:

6 (1) **may not be filed earlier than one (1) year; and**  
7 (2) **must be filed not later than ~~one (1) year~~ five (5) years;**  
8 after the date the statement and notice of intention to hold a lien was  
9 recorded under section 6 of this chapter.

10 (b) If a lien is not enforced within the time set forth in subsection  
11 (a), the lien is void.

12 (c) If a lien is foreclosed under this chapter, the court rendering  
13 judgment shall order a sale to be made of the real estate subject to the  
14 lien. The officers making the sale shall sell the real estate without any  
15 relief from valuation or appraisal laws.

16 SECTION 3. IC 32-28-14-9, AS ADDED BY P.L.135-2007,  
17 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
18 JULY 1, 2009]: Sec. 9. (a) A homeowners association lien under this  
19 chapter is void if both of the following occur:

20 (1) The owner of the real estate subject to the homeowners  
21 association lien or any person or corporation having an interest in  
22 the real estate, including a mortgagee or a lienholder, provides  
23 written notice to the owner or holder of the lien to file an action  
24 to foreclose the lien.

25 (2) The owner or holder of the lien fails to file an action to  
26 foreclose the lien in the county where the real estate is located  
27 within ~~thirty (30) days~~ **one (1) year** after the date the owner or  
28 holder of the lien received the notice described in subdivision (1).

29 However, this section does not prevent the claim from being collected  
30 as other claims are collected by law.

31 (b) A person who gives notice under subsection (a)(1) by registered  
32 or certified mail to the owner or holder of the homeowners association  
33 lien at the address given in the recorded statement may file an affidavit  
34 of service of the notice to file an action to foreclose the lien with the  
35 recorder of the county in which the real estate is located. The affidavit  
36 must state the following:

- 37 (1) The facts of the notice.  
38 (2) That more than ~~thirty (30) days~~ **one (1) year** has passed  
39 since the notice was received by the owner or holder of the lien.  
40 (3) That an action for foreclosure of the lien is not pending.  
41 (4) That an unsatisfied judgment has not been rendered on the  
42 lien.

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1           (c) The recorder shall record the affidavit of service in the  
2 miscellaneous record book of the recorder's office. When the recorder  
3 records the affidavit under this subsection, the real estate described in  
4 the homeowners association lien is released from the lien.

5           (d) An affidavit recorded under subsection (c) must cross reference  
6 the lien.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1071, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 5 through 17, begin a new paragraph and insert:

**"Chapter 1. Applicability**

**Sec. 1. This article applies to the following:**

- (1) A homeowners association established after June 30, 2009.**
- (2) A homeowners association established before July 1, 2009:**
  - (A) if a majority of the members of the homeowners association elect to be governed by this article; or**
  - (B) if the number of members required by the homeowners association's governing documents elect to be governed by this article if a different number of members other than the number established in clause (A) is required by the governing documents.**

**Chapter 2. Definitions**

**Sec. 1. The definitions in this chapter apply throughout this article.**

**Sec. 2. "Act in furtherance of a person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana in connection with a public issue" has the meaning set forth in IC 34-7-7-2.**

**Sec. 3. "Board" refers to the board of directors of a homeowners association.**

**Sec. 4. "Governing documents" includes:**

- (1) the articles of incorporation and bylaws of a homeowners association and all adopted amendments to the articles of incorporation and bylaws; and**
- (2) any applicable declaration of plat.**

**Sec. 5. "Homeowners association" means a corporation or another entity that:**

- (1) is organized and operated exclusively for the benefit of two**
- (2) or more persons who each own a dwelling in fee simple;**
- (2) acts, in accordance with the articles, bylaws, or other documents governing the corporation or entity, to:**
  - (A) acquire, transfer, manage, repair, maintain, or engage in construction on or in the land and improvements on the land related to the use of the dwellings owned by the members of the corporation or entity;**
  - (B) purchase insurance to cover a casualty or an activity**

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- on or in the land and improvements on the land;
  - (C) engage in an activity incidental to an activity described in clause (A) or (B); or
  - (D) engage in more than one (1) of the activities described in clauses (A) through (C); and
- (3) may be governed by a board that serves the purpose of setting policy and controlling or otherwise overseeing the activities or functional responsibilities of the corporation or entity.

Sec. 6. "Subdivision" means the division of a parcel of land into lots, parcels, tracts, units, or interests in the manner defined and prescribed by a subdivision control ordinance adopted by a legislative body under IC 36-7-4.

**Chapter 3. Homeowners Associations**

Sec. 1. (a) A homeowners association shall maintain:

- (1) a current roster of all members of the association; and
- (2) the mailing address and parcel identification for each member of the association.

(b) The homeowners association shall also maintain any electronic mail addresses or facsimile (fax) numbers of those members who have consented to receive notice by electronic mail or facsimile (fax). Electronic mail addresses and facsimile (fax) numbers provided by a member to receive notice by electronic mail or facsimile (fax) shall be removed from the association's records when the member revokes consent to receive notice by electronic mail or facsimile (fax). However, the association is not liable for an erroneous disclosure of an electronic mail address or a facsimile (fax) number for receiving notices.

(c) The mailing addresses and parcel identifications maintained by a homeowners association under subsection (a):

- (1) shall be made available to a member of the homeowners association upon request;
- (2) may be used by a member of the homeowners association only for a purpose related to the operation of the homeowners association; and
- (3) may not be used by a member of the homeowners association for personal reasons.

(d) Except as provided in subsection (c), a homeowners association may not sell, exchange, or otherwise transfer information maintained by the homeowners association under this section to any person.

Sec. 2. If more than fifty percent (50%) of the members of a

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homeowners association petition the board to address an item of business, including the amendment of any governing documents, the board shall address the petitioned item on an agenda:

- (1) at its next regular board meeting or at a special meeting of the board; and
- (2) not later than sixty (60) days after the receipt of the petition.

Sec. 3. (a) A homeowners association shall prepare an annual budget.

(b) The annual budget must reflect:

- (1) the estimated revenues and expenses for the budget year; and
- (2) the estimated surplus or deficit as of the end of the current budget year.

(c) The homeowners association shall provide each member of the homeowners association with:

- (1) a copy of the proposed annual budget; or
- (2) a written notice that a copy of the proposed annual budget is available upon request at no charge to the member;

before the homeowners association meeting held under subsection (d).

(d) Subject to subsection (e), a homeowners association budget must be approved at a meeting of the homeowners association members at which at least fifteen percent (15%) of the members of the homeowners association are in attendance.

(e) If at least fifteen percent (15%) of the members of the homeowners association do not attend a meeting held under subsection (d), the homeowners association budget may be approved at a second or subsequent meeting of the homeowners association members held under this section if at least ten percent (10%) of the members of the homeowners association are in attendance.

Sec. 4. (a) A board may not enter into any contract that would result in a new assessment or the increase in an existing assessment payable by the affected members of the homeowners association in the amount of more than five hundred dollars (\$500) per year for each member of the homeowners association unless:

- (1) the board holds at least two (2) homeowners association meetings concerning the contract; and
- (2) the contract is approved by the affirmative vote of at least two-thirds (2/3) of the affected members of the homeowners association.

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**(b) A board shall give notice of the first homeowners association meeting held under subsection (a):**

- (1) to each member of the homeowners association; and**
- (2) at least seven (7) calendar days before the date the meeting occurs."**

Page 2, delete lines 1 through 6.

Page 2, line 8, after "liability" insert "**during any calendar year**".

Page 2, line 9, delete "five thousand dollars (\$5,000) during" and insert "**the greater of:**

- (1) five thousand dollars (\$5,000) during any calendar year; or**
- (2) if the homeowners association operated under an annual budget in the previous calendar year, an amount equal to at least ten percent (10%) of the previous annual budget of the homeowners association;"**

Page 2, line 10, delete "any calendar year".

Page 2, line 10, beginning with "unless" begin a new line blocked left.

Page 2, between lines 19 and 20, begin a new line blocked left and insert:

**"However, the developer of the subdivision may cast one (1) vote under this section for each lot, parcel, tract, or unit in the subdivision that is owned by the developer."**

Page 2, delete lines 27 through 42, begin a new paragraph and insert:

**"Sec. 6. (a) The governing documents must include grievance resolution procedures that apply to all members of the homeowners association and the board.**

**(b) The procedures described in subsection (a) must provide for the final and binding resolution of disputes concerning the administration of the homeowners association and interpretation of the governing documents.**

**Sec. 7. (a) The governing documents must include provisions that allow the termination of the homeowners association:**

- (1) if at least ninety percent (90%) of the members of the homeowners association agree to the termination; and**
- (2) if at least forty percent (40%) of the lots, parcels, tracts, or units in the subdivision are subject to mortgage agreements, if one hundred percent (100%) of the mortgage lenders that hold mortgages on a lot, parcel, tract, or unit in the subdivision agree to the termination.**

**(b) The approval of a termination under subsection (a) must be**

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evidenced by an agreement:

(1) signed by:

(A) at least ninety percent (90%) of the members of a homeowners association; and

(B) if applicable, one hundred percent (100%) of the mortgage lenders that hold mortgages on a lot, parcel, tract, or unit in the subdivision; and

(2) filed with the clerk of the circuit court that has jurisdiction in the county in which the real property governed by the homeowners association is located.

(c) The provisions described in subsection (a) must provide that, after an agreement is filed with the clerk of the circuit court under subsection (b), the homeowners association remains in existence only:

(1) to wind up the association's affairs; and

(2) until all the liabilities and obligations of the association have been discharged.

Sec. 8. (a) A regular annual assessment:

(1) that is imposed by a homeowners association on a member of the homeowners association; and

(2) that is unpaid by the member;

is enforceable as a lien on real property owned by the member as provided in IC 32-28-14 only after the homeowners association has failed to collect the annual assessment in a civil action brought under section 9 of this chapter and IC 32-28-14-8.

(b) An assessment that is not described in subsection (a):

(1) that is imposed by a homeowners association on a member of the homeowners association; and

(2) that is unpaid by the member;

is not enforceable as a lien on real property owned by the member but may be enforced in a civil action brought under section 9 of this chapter.

Sec. 9. (a) If an assessment described in section 8(a) or 8(b) of this chapter is unpaid by a member of the homeowners association and the homeowners association attempts to collect the assessment in a civil action, the homeowners association must bring the civil action in the name of the homeowners association as follows:

(1) Before bringing the civil action, the homeowners association shall:

(A) provide the member with written notice of the intent of the homeowners association to bring the action; and

(B) provide the member with a reasonable time to pay the

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assessment.

(2) If the member fails to pay the assessment within the time period described in subdivision (1)(B), the homeowners association may bring the civil action as follows:

(A) The action shall be filed on the small claims docket of the circuit court or superior court that has jurisdiction in the county in which the member's real property is located if the amount of the assessment is within the jurisdiction of the small claims docket.

(B) If the amount of the assessment is not within the jurisdiction of the small claims docket, the action may be filed in any court that has jurisdiction.

(b) The procedures described in subsection (a) must be included in the governing documents.

Sec. 10. A homeowners association may not suspend the voting rights of a member for nonpayment of regular annual assessments unless:

- (1) the governing documents provide for suspension; and
- (2) the assessments are delinquent for more than one (1) year.

Sec. 11. (a) If a homeowners association brings a civil action against a member of the association involving an act in furtherance of the person's right of petition or free speech under the Constitution of the United States or the Constitution of the State of Indiana in connection with a public issue, the defense established by IC 34-7-7 is available to the member in that action.

(b) A homeowners association may not expend association money prosecuting a civil action described in subsection (a) against a member.

Sec. 12. If the governing documents contain a provision concerning the display of yard signs in a subdivision, the provision may not be more restrictive than any applicable local ordinance concerning the display of:

- (1) politically related yard signs; or
- (2) yard signs concerning the sale of real property.

SECTION 2. IC 32-28-14-8, AS ADDED BY P.L.135-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) A homeowners association may enforce a homeowners association lien under this chapter only after the homeowners association has failed to collect the unpaid common expenses by bringing a civil action:

- (1) in any court with jurisdiction; or
- (2) if applicable, under the procedures described in

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**IC 32-25.5-3-9.**

(b) A homeowners association may enforce a homeowners association lien by filing a complaint in the circuit or superior court of the county where the real estate that is the subject of the lien is located. The complaint must be filed not later than ~~one (1) year~~ **five (5) years** after the date the statement and notice of intention to hold a lien was recorded under section 6 of this chapter.

~~(b)~~ (c) If a lien is not enforced within the time set forth in subsection ~~(a)~~, (b), the lien is void.

~~(c)~~ (d) If a lien is foreclosed under this chapter, the court rendering judgment shall order a sale to be made of the real estate subject to the lien. The officers making the sale shall sell the real estate without any relief from valuation or appraisal laws."

Delete page 3.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1071 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 8, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1071 be amended to read as follows:

Page 6, line 13, delete "only after the homeowners association has" and insert ".".

Page 6, delete lines 14 through 15.

Page 6, line 23, delete "8(a) or".

Page 7, delete lines 25 through 42, begin a new paragraph and insert:

"SECTION 2. IC 32-28-14-8, AS ADDED BY P.L.135-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) A homeowners association may enforce a homeowners association lien by filing a complaint in the circuit or superior court of the county where the real estate that is the subject of the lien is located. The complaint:

**(1) may not be filed earlier than one (1) year; and**

**(2) must be filed not later than ~~one (1) year~~ **five (5) years;****

after the date the statement and notice of intention to hold a lien was

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recorded under section 6 of this chapter.

(b) If a lien is not enforced within the time set forth in subsection (a), the lien is void.

(c) If a lien is foreclosed under this chapter, the court rendering judgment shall order a sale to be made of the real estate subject to the lien. The officers making the sale shall sell the real estate without any relief from valuation or appraisal laws."

Delete page 8.

(Reference is to HB 1071 as printed February 18, 2009.)

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1071, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 2 through 5.

Page 2, line 6, delete "3." and insert "2."

Page 2, line 8, delete "4." and insert "3."

Page 2, line 13, delete "5." and insert "4."

Page 2, line 33, delete "6." and insert "5."

Page 2, line 40, delete "parcel identification" and insert "legal description".

Page 3, line 10, delete "parcel identifications" and insert "legal descriptions".

Page 3, delete lines 23 through 30, begin a new paragraph and insert:

**"Sec. 2. (a) In addition to any other meeting held by a board, a board shall hold a special meeting of the members of a homeowners association if at least ten percent (10%) of the members of the homeowners association submit to the board at least one (1) written demand for the special meeting that:**

**(1) describes the purpose for which the meeting is to be held; and**

**(2) is signed by the members requesting the special meeting.**

**(b) If a board does not send out a notice of the time and the place for a special meeting not more than thirty (30) days after the date the board receives a valid written demand for the special meeting under subsection (a), a member of the homeowners**



association who signed the written demand may:

- (1) set the time and place for the special meeting; and
- (2) send out the notice for the special meeting to the other members."

Page 4, between lines 13 and 14, begin a new paragraph and insert:

**"(f) If at least ten percent (10%) of the members of the homeowners association do not attend a second or subsequent meeting held under subsection (e), the board may adopt an annual budget for the homeowners association for the ensuing year in an amount that does not exceed one hundred ten percent (110%) of the amount of the last approved homeowners association annual budget.**

**(g) For purposes of this section, a member of a homeowners association is considered to be in attendance at a meeting if the member attends:**

- (1) in person;
- (2) by proxy; or
- (3) by any other means allowed under:
  - (A) state law; or
  - (B) the governing documents of the homeowners association."

Page 4, line 14, after "(a)" insert **"This section does not apply to a contract entered into by a board that would resolve, settle, or otherwise satisfy an act of enforcement against a homeowners association for violating a state or local law.**

**(b)".**

Page 4, line 24, delete "(b)" and insert **"(c)".**

Page 4, line 25, delete "(a):" and insert **"(b):"**.

Page 4, line 29, after "(a)" insert **"This section does not apply to money borrowed by a homeowners association that is needed to:**

- (1) resolve, settle, or otherwise satisfy an act of enforcement against the homeowners association for violating a state or local law; or
- (2) address an emergency that affects the public health, safety, or welfare.

**(b)".**

Page 4, line 29, delete "incur" and insert **"borrow money"**.

Page 4, line 30, delete "indebtedness or liability".

Page 4, line 38, delete "incurring the indebtedness or liability" and insert **"borrowing the money"**.

Page 4, line 41, delete "(b)" and insert **"(c)".**

Page 4, line 42, delete "only".

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Page 4, line 42, after "section" insert "**for each lot, parcel, tract, unit, or interest in land in the subdivision that is owned by the person unless the governing documents provide for a different voting procedure.**".

Page 5, delete lines 1 through 8.

Page 5, line 9, delete "(c)" and insert "**(d)**".

Page 5, line 11, delete "(d)" and insert "**(e)**".

Page 5, line 14, delete "(e)" and insert "**(f)**".

Page 5, line 16, delete "(a)".

Page 5, delete lines 19 through 42.

Delete page 6.

Page 7, delete lines 1 through 2.

Page 7, line 3, delete "10." and insert "**7.**".

Page 7, line 4, delete "regular annual" and insert "**any**".

Page 7, line 7, delete "one (1) year." and insert "**six (6) months.**".

Page 7, delete lines 8 through 22.

Page 7, after line 38, begin a new paragraph and insert:

"SECTION 3. IC 32-28-14-9, AS ADDED BY P.L.135-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) A homeowners association lien under this chapter is void if both of the following occur:

(1) The owner of the real estate subject to the homeowners association lien or any person or corporation having an interest in the real estate, including a mortgagee or a lienholder, provides written notice to the owner or holder of the lien to file an action to foreclose the lien.

(2) The owner or holder of the lien fails to file an action to foreclose the lien in the county where the real estate is located within ~~thirty (30) days~~ **one (1) year** after the date the owner or holder of the lien received the notice described in subdivision (1).

However, this section does not prevent the claim from being collected as other claims are collected by law.

(b) A person who gives notice under subsection (a)(1) by registered or certified mail to the owner or holder of the homeowners association lien at the address given in the recorded statement may file an affidavit of service of the notice to file an action to foreclose the lien with the recorder of the county in which the real estate is located. The affidavit must state the following:

(1) The facts of the notice.

(2) That more than ~~thirty (30) days~~ **have one (1) year** has passed since the notice was received by the owner or holder of the lien.

(3) That an action for foreclosure of the lien is not pending.

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(4) That an unsatisfied judgment has not been rendered on the lien.

(c) The recorder shall record the affidavit of service in the miscellaneous record book of the recorder's office. When the recorder records the affidavit under this subsection, the real estate described in the homeowners association lien is released from the lien.

(d) An affidavit recorded under subsection (c) must cross reference the lien."

and when so amended that said bill do pass.

(Reference is to HB 1071 as reprinted February 21, 2009.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 2.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1071 be amended to read as follows:

Page 4, delete lines 2 through 4, begin a new line block indented and insert:

"(1) a:

(A) copy of the proposed annual budget; or

(B) written notice that a copy of the proposed annual budget is available upon request at no charge to the member; and

(2) a written notice of the amount of any increase or decrease in a regular annual assessment paid by the members that would occur if the proposed annual budget is approved;"

Page 4, line 7, delete "Subject to subsection (e), a" and insert "A".

Page 4, line 9, delete "at which at least fifteen percent (15%) of the members of" and insert "by a majority of the members of the homeowners association in attendance at a meeting called and conducted in accordance with the requirements of the homeowners association's governing documents."

Page 4, delete lines 10 through 24.

Page 4, line 25, delete "(g)" and insert "(e)".

(Reference is to EHB 1071 as printed April 10, 2009.)

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